

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	
)	
KRISTIN J. DOBAY, M.D.)	BEFORE THE TENNESSEE BOARD
RESPONDENT)	OF MEDICAL EXAMINERS
)	
)	COMPLAINT NO. 2019007891
NASHVILLE, TENNESSEE)	
TENNESSEE LICENSE NO. 44841)	

CONSENT ORDER

Come now the Division of Health Related Boards of the Tennessee Department of Health ("State"), by and through the Office of General Counsel, and Respondent, Kristin J. Dobay, M.D., ("Respondent"), and respectfully move the Tennessee Board of Medical Examiners ("Board") for approval of this Consent Order effecting Respondent's medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical professionals licensed to practice in the State of Tennessee. *See Tennessee Medical Practice Act, Tennessee Code Annotated sections ("TENN. CODE ANN. §§") 63-6-101, et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining individuals who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules and Regulations promulgated by the Board and recorded in the Official Compilation Rules and Regulations of the State of Tennessee ("TENN. COMP. R. & REGS.")

Respondent, by his signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members

shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

STIPULATIONS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted license number 44841 by the Board on July 14, 2009, which currently has an expiration date of January 31, 2021.
2. On December 7, 2018, at approximately 12:43 a.m., an officer with the Hopkinsville Kentucky Police Department arrested Respondent for DUI. .
3. On or about December 8, 2018, Respondent reported the DUI to his employers St. Thomas Midtown (St. Thomas) and TriStar Centennial Medical Center (Tristar).
4. On or about December 11, 2018, the St. Thomas Medical Executive Committee met separately and with the Respondent.
5. On or about December 12, 2018, the St. Thomas Medical Executive Committee suspended Respondent's clinical privileges. Respondent was to develop a thirty (30) day plan to meet with a counselor at Bradford Health Services and be evaluated in Atlanta. Once completed, he was to contact and obtain advocacy with the Tennessee Medical Foundation (TMF) before his privileges could be restored.
6. Respondent did not complete the requirements specified by St. Thomas and his privileges remain suspended.
7. Respondent reported that another physician was on call and covering his patients on the evening of December 7, 2018 when he received the DUI, however the subsequent physician confirmed that the Respondent nor his staff notified him that he was to be on call for the

Respondent. Respondent avers that he had adequate coverage in that the physician that was covering would only be notified if there were admissions to the hospital; there were no admissions on that night.

8. Respondent chose to voluntarily refrain from practice at TriStar and a precautionary suspension was mandated on December 10, 2018. The mandate included a proposed plan for the Respondent to complete an evaluation at an inpatient facility.
9. Respondent reported that he completed an evaluation at Talbott Recovery Campus in Atlanta, Georgia on January 3, 2019.
10. Though the Respondent did not submit a report to TriStar confirming the completion of the evaluation, his precautionary suspension was lifted by TriStar on January 8, 2019 with the mandate that he continue counseling sessions and send a quarterly report from a site vetted by TriStar or vetted by the TMF to allow him to practice until his privileges expired on January 31, 2019.
11. The TriStar Medical Executive Committee sent the Respondent a detailed plan on January 11, 2019 specifying he was to attend counseling sessions once a week for three (3) months; then once a month for three (3) months; then once every other month for one (1) year. Respondent was also mandated to attend couples counseling; register with Sober Link to monitor drug screens and sign all consent forms to allow TriStar to obtain all documents and reports as needed.
12. Respondent did not establish a monitoring relationship with Sober Link to have his drug screens monitored and instead chose Addiction Behavioral Care, LLC.
13. Respondent admits that during this time he was not involved in any TMF program or maintained an advocacy relationship with TMF. Since the suspension of his privileges, Respondent has completed evaluations at Florida Recovery Center (FRC) and Vanderbilt

Comprehensive Assessment Program (VCAP) through the recommendation of the TMF. Respondent has also received treatment from the Acumen Institute.

14. Respondent does not currently have clinical privileges at any hospital.
15. This is the second DUI for the Respondent. On or about August 7, 2011, he was arrested by the Kentucky State Police and charged with reckless driving, possession of an open alcoholic beverage container in a motor vehicle and operating a motor vehicle under the influence of alcohol and/or drugs.
16. During this time Respondent was also employed by Patient Centered Care, LLC in Mt. Juliet, Tennessee. Patient Centered Care, LLC specializes in addiction treatment.
17. Respondent was discovered prescribing controlled substances to an individual, L.M., under the name of another physician employed by Patient Centered Care, LLC. L.M. was not a patient of the Respondent at Patient Centered Care, LLC and was the Respondent's girlfriend.
18. On or about May 31, 2019, a physician employed by Patient Centered Care, LLC discovered several prescriptions in the Controlled Substance Monitoring Database (CSMD) that were written to L.M. under her name that she did not authorize. This physician had never seen or provided treatment to L.M. at the Patient Centered Care, LLC.
19. The prescriptions were filled at Walgreens and copies of the prescriptions were requested by Patient Centered Care, LLC to review.
20. Walgreens provided the following prescriptions written to L.M.:
 - January 4, 2019 prescription for ninety (90) Ritalin;
 - January 4, 2019 prescription for twenty-five (25) Clonazepam;
 - January 4, 2019 prescription for one hundred eighty (180) Gabapentin; with two (2) refills;

- January 4, 2019 prescription for thirty (30) Abilify with two (2) refills;
 - January 4, 2019 prescription for sixty (60) Depakote, with two (2) refills.
21. Further review of the Respondent's prescribing record from Patient Centered Care, LLC revealed that prescriptions were written to four (4) other individuals who were not patients of Patient Centered Care, LLC.
 22. These individuals were J.W., W.S., J.L. and a different L.M. Patients J.W and J.L. were established patients of Respondent's obstetrics practice but not established patients of Patient Center Care, LLC.
 23. On May 24, 2019, J.W. was written a prescription for sixty (60) of Norco from Patient Center Care, LLC.
 24. On January 8, 2019, W.S. was written a prescription for Methadone 10mg to be taken twelve (12) times a day for four (4) weeks; totaling a 1,440 morphine milligram equivalent. The recommended daily morphine milligram equivalent is 120. W.S. also received a prescription for Oxycodone 30mg to be taken four (4) times a day for four (4) weeks; a 180 morphine milligram equivalent, totaling a combined 1640 morphine milligram equivalent a day, roughly 13.5 times the amount of the recommended daily morphine equivalent. Respondent avers that while this is his prescription pad and DEA number, he does not recall writing the prescription.
 25. On April 6, 2019, J.L. was written a prescription for sixty (60) 30mg Adderall; April 30, 2019 sixty (60) 30mg Adderall; March 2, 2019, sixty (60) 30mg Adderall; February 2, 2019, sixty (60) 30mg Adderall; January 24, 2019, ninety (90) 1mg Klonopin with two (2) refills; January 4, 2019 sixty (60) 30mg Adderall.

26. J.L. was an administrative employee of Patient Centered Care, LLC at the time Respondent wrote the prescriptions. J.L. admitted to selling prescriptions Respondent provided to her for monetary gain.
27. On February 11, 2019, L.M. was written a prescription for fifty-six (56) 40mg Oxy-morphone ER.
28. On or about June 8, 2019, Respondent was terminated from Patient Centered Care, LLC. This decision was made upon the review of his prescribing habits being in direct conflict with the standard of care regulated by the Tennessee Medical Board.

GROUND FOR DISCIPLINE

The preceding Stipulations of Fact are sufficient to establish that Respondent has violated the following statutes or rules which are part of the Act, TENN. CODE ANN. § 63-6-101, *et seq.* for which disciplinary action before and by the Board is authorized:

29. The facts stipulated in paragraphs (2) through (5); (8) through (11); (15) through (18); (20) and (21); (24) through (33) *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214 (b) (1):

Unprofessional, dishonorable or unethical conduct

35. The facts stipulated in paragraphs (2) through (5) and (18) *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214 (b) (2):

A violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, this chapter or any lawful order of the board issued pursuant thereto or any criminal statute of this state

36. The facts stipulated in paragraphs (20) and (21) *supra*, constitute a violation of TENN.

CODE ANN. § 63-6-214 (b) (3):

Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice or being guilty of fraud or deceit in the practice of medicine

37. The facts stipulated in paragraphs (20) through (31) *supra*, constitute a violation of

TENN. CODE ANN. § 63-6-214 (b) (12):

Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering or not to cure an ailment, physical infirmity or disease, or in amounts and/or for durations not medically necessary, advisable or justified for a diagnosed condition

38. The facts stipulated in paragraphs (20) through (31) *supra supra*, constitute a violation of

TENN. COMP. R. & REGS 0880-02-.25 (1):

If the board or committee finds that its licensee has prescribed, dispensed, or administered opioids in a manner that violates the board's or committee's statutes or rules (for example, by prescribing in a manner that constitutes gross healthcare liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence), the board or committee shall make a finding that the licensee engaged in a significant deviation or pattern of deviation from sound medical judgement. For purposes of such a finding, sound medical judgment is the equivalent to the standard of care as defined in T.C.A. § 63-1-122

POLICY STATEMENT

The Tennessee Board of Medical Examiners takes the following action in order to protect the health, safety and welfare of the people of the State of Tennessee and ensure that the public confidence in the integrity of the medical profession is preserved.

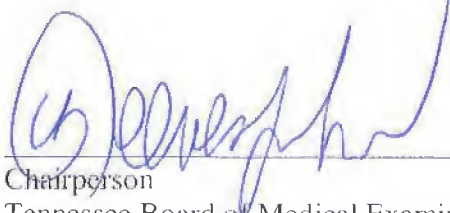
ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

39. The Tennessee medical license of Kristin J. Dobay M.D., license number 44841, is hereby **VOLUNTARILY SURRENDERED** effective the date of entry of this Order which the Respondent acknowledges will have the same effect as a revocation.
40. Should Respondent submit an application for a new license, Respondent agrees to submit the results of any prior VCAP evaluations to the Board's Medical Director for the Board to consider when reviewing the licensure application. Respondent further agrees to comply with any and all recommendations of the VCAP evaluation as a condition of new licensure.
41. If the recommendations of the VCAP evaluation include follow-up or continuing treatment; continuing education; practice restrictions or prescribing restrictions; Respondent agrees to complete such conditions and, within thirty (30) days, obtain and maintain a monitoring agreement with the Tennessee Medical Foundation ("TMF") and to submit quarterly reports of the status of that monitoring agreement to the Disciplinary Coordinator for the Board. The monitoring agreement shall run at a duration recommended by TMF and allow TMF to coordinate and/or arrange any treatment recommended Respondent complete to be deemed safe to practice.
42. Under no circumstances will a new license be issued until the Board is satisfied that the applicant is competent and safe to re-enter the practice of medicine in addition to meeting all other existing licensure requirements.

43. Respondent shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-2-.12(1)(j) of the *Official Compilation Rules and Regulations of the State of Tennessee*, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be five thousand dollars (\$5,000.00).
44. Any and all costs shall be paid in full within thirty (30) days from the issuance of the Assessment of Costs by submitting a **certified check, cashier's check, or money order** payable to the **State of Tennessee**, which shall be mailed or delivered to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, 2nd Floor, Nashville, Tennessee 37243, Nashville, Tennessee 37243.** A notation shall be placed on said check or money order that it is payable for the costs of **Kristin J. Dobay, M.D., COMPLAINT NO. 2019007891.**
45. Respondent understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agency.

This **CONSENT ORDER** was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 18th day of September, 2019.


Chairperson
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:


Kristin J. Dobay, M.D.

RESPONDENT

9.17.19
DATE


Robert Turner, Esq.

Turner Law Offices, P.C.
208 Third Avenue North
Suite 100
Nashville, Tennessee 37201
(615) 7843-3476

9/19/19
DATE


Jennifer L. Putnam (BPR#29890)

Assistant General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

9/18/19
DATE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Kristin J. Dobay, M.D., by and through counsel Robert Turner, Esq., Turner Law Offices, P.C., 208 Third Avenue North, Suite 100 Nashville, Tennessee 37201 via e-mail at rob@TurnerLawOffices.com.

This 18th day of September, 2019.


Jennifer L. Putnam
Assistant General Counsel